

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>UNITED STATES OF AMERICA,</b>	)	<b>Case No. 8:13CR105</b>
	)	
<b>Plaintiff,</b>	)	
	)	<b>OBJECTION TO RECOMMENDATIONS</b>
<b>-vs-</b>	)	<b>AND FINDINGS</b>
	)	
	)	
<b>TIMOTHY DEFOGGI,</b>	)	
	)	
<b>Defendant.</b>	)	

COMES NOW the Defendant, by and through counsel, and hereby objects to the Findings and Recommendations issued by Judge Magistrate Thomas D. Thalken in relation to Defendant's Motion to Dismiss for an unreasonable delay denying him a speedy trial in violation of the Sixth Amendment of the United States Constitution and 18 U.S.C. § 3161. In support of his objection, the Defendant offers the following sufficient reasons, to wit:

1. Fifteen months have passed since the Defendant was indicted and nearly fourteen months since his initial appearance and arraignment. The Eighth Circuit has held that such a delay is "presumptively prejudicial". See *United States v. Erenas-Luna*, 560 F.3d 772, 776 (8th Cir. 2009)(citing *United States v. Jeanetta*, 533 F.3d 651, 656 (8th Cir. 2008)).

2. Bringing the Defendant to trial was unnecessarily delayed by the 6 ½ months it took the Government to produce a forensic analysis.
3. Trial has been further delayed while the Government attempts to secure a witness currently residing in a foreign country.

For the foregoing reasons, the Defendant objects to the Findings and Recommendations issued by Judge Magistrate Thomas D. Thalken in relation to Defendant's Motion to Dismiss for an unreasonable delay denying him a speedy trial in violation of the Sixth Amendment of the United States Constitution and 18 U.S.C. § 3161.

Respectfully submitted,  
Timothy Defoggi, Defendant

/s/ John S. Berry  
John S. Berry, #22627  
BERRY LAW FIRM  
2650 North 48<sup>th</sup> Street  
Lincoln, NE 68508  
[john@jsberrylaw.com](mailto:john@jsberrylaw.com)  
(402) 466-8444

#### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served upon Michael Norris, Assistant U.S. Attorney and Keith A. Becker, U.S. Department of Justice, by electronically serving a copy of the same to both via CM/ECF, on this the 25<sup>th</sup> day of July, 2014.

/s/ John S. Berry  
John S. Berry, #22627